

REMARKS

This Amendment is being filed in response to the Office Action mailed February 25, 2009, which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-16 remain in the Application, where claims 14-16 have been added. Claim 1 is independent.

In the Office Action, claim 1, 5-7 and 11 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 4,298,005 (Mutzhas) in view of U.S. Patent No. 3,048,741 (Thouret). It should be noted that page 2 of the Office Action incorrectly refers to Mutzhas as U.S. 4,498,005 (which is to Oono and is not related to a tanning apparatus). Claim 2 is rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Mutzhas and Thouret in view of U.S. Patent No. 4,340,843 (Anderson). Claims 3-4 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Mutzhas and Thouret in view of U.S. Patent No. 4,287,454

(Feuersanger). Claims 9-10 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Mutzhas and Thouret in view of U.S. Patent No. 4,309,616 (Wolff). Claims 8 and 12-13 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Mutzhas and Thouret in view of U.S. Patent No. 4,3283,661 (Dotty) and an article entitled "Non-Coherent Near Infrared Radiation Protects Normal Human Dermal Fibroblasts from Solar Ultraviolet Toxicity" (Menezes). Applicants respectfully traverse and submit that claims 1-16, as amended, are patentable over Mutzhas, Thouret, Anderson, Feuersanger, Wolff, Dotty and Menezes for at least the following reasons.

Mutzhas is directed to a radiation apparatus for providing UV radiation in the region of 320nm to 450nm. As specifically recited on column 1, lines 59-63 Mutzhas "completely suppresses the radiation wave length shorter than 320 nm in order to avoid damage to health by conjunctivitis (inflammation of the conjunctiva) and erythema (sunburn)." That is, Mutzhas is NOT a tanning apparatus, unlike the present invention as recited in claim 1-16. Further, as correctly noted on page 2 of the Office Action, Mutzhas does not

disclose or suggests an incandescent lamp included in the ballast which is separate from the gas discharge lamp. Thouret is cited in an attempt to remedy the deficiencies in Mutzhas.

Thouret is directed to an arc lamp with a self-ballasted arc tube. As shown in FIG 1A and described on column 3, lines 14-15, the Thouret lamp has an arc chamber 19 and an incandescent filament ballast chamber 21. As clearly shown in FIG1 A and described on page 1, line 25 to page 2, line 3 of the present application, the lamp tungsten filament ballast is integrated with the arc lamp in the Thouret lamp using the same glass tube 10 to form both the arc chamber 19 and a filament ballast chamber 21. The Thouret tungsten filament ballast and arc lamp are note separate lamps and the Thouret tungsten filament cannot be operated without the arc lamp.

In stark contrast, the present invention as recited in independent claim 1, amongst other patentable elements recites (illustrative emphasis provided):

at least one ballast connected in series with said at least one gas discharge UV lamp, and at least one incandescent lamp separate from the at least one gas discharge lamp, wherein said at least one incandescent lamp is included in said at least one ballast and is operable without said

at least one gas discharge UV lamp, said at least one incandescent lamp and said at least one gas discharge UV lamp being included in a reflector.

There is simply no disclosure or suggestion in Mutzhas, Thouret, and combination thereof, of an incandescent lamp separate from the gas discharge lamp, where the incandescent lamp is included in the ballast and is operable without the gas discharge lamp, as recited in independent claim 1. Anderson, Feuersanger, Wolff, Dotty and Menezes are cited to allegedly show other features and do not remedy the deficiencies in Mutzhas and Thouret.


Accordingly, it is respectfully submitted that independent claim 1 is allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-16 are also allowable at least based on their dependence from amended independent claim 1.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to

submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

By   
Dicran Halajian, Reg. 39,703  
Attorney for Applicant(s)  
May 18, 2009

**THORNE & HALAJIAN, LLP**  
Applied Technology Center  
111 West Main Street  
Bay Shore, NY 11706  
Tel: (631) 665-5139  
Fax: (631) 665-5101